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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,495	11/14/2003	Woo Choi	8071-48 (OPP 030660 US)	1035
22150	7590	10/18/2005	EXAMINER	
F. CHAU & ASSOCIATES, LLC			DUONG, TAI V	
130 WOODBURY ROAD			ART UNIT	
WOODBURY, NY 11797			PAPER NUMBER	

2871

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,495

Applicant(s)

CHOI ET AL.

Examiner

Tai Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
4a) Of the above claim(s) 21 and 23-35 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 and 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/26/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Applicant's election with traverse of Species A of Group I (claims 1-20 and 22) in the reply filed on 08/05/05 is acknowledged. The traversal is on the ground(s) that simultaneous examination will not present an undue burden. This is not found persuasive because the search and examination of the two inventions (each invention including two species) would cause a serious burden on the examiner, not taking into account that new claims with newly recited features of the four species might be added later in subsequent amendments. Examination includes consideration of the prior art, determination of the compliance of the specification and the drawings with respect to the rules, the compliance of the claims with respect to 35 USC 112, first and second paragraphs, etc..

The requirement is still deemed proper and is therefore made FINAL.

Claims 21 and 23-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 08/05/05.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 9-12, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2002-082339 cited by Applicant.

Note Figs. 1, 2(a) and Table 1 which identically disclose the claimed liquid crystal display (LCD) comprising: a first panel 29; a second panel 24 disposed opposite the first panel; at least one spacer 32 disposed between the first panel and the second panel, the spacer having a tapered shape with an inclination angle in the range of about 20-about 70 degrees and a height in the range of about 2.5-about 5.0 microns (see paragraphs 0033-0037 and Table 1). For discussions of the remaining features, see paragraphs 0022-0026.

Claims 1-7, 9-16, 18-20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (US Pub. 2005/0099577).

Note Figs. 8-10 of Lee et al and Figs. 5-7 of the instant application which are *identical*. Since the two liquid crystal displays disclosed in the above figures are identical, the recited features in the instant claims are inherent with the LCD of Lee et al. Also, see paragraphs 0116, 0130-0168 and 0301 for discussions of the recited features.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claims 8 and 17 are provisionally rejected under 35 U.S.C. 103(a) as being obvious over Lee et al in view of the copending Application No. 10/672,304 which has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the copending application, it would constitute prior art under 35 U.S.C. 102(e) if published or patented. This provisional rejection under 35 U.S.C. 103(a) is based upon a presumption of future publication or patenting of the conflicting application.

The only differences between the LCD of Lee et al and that of the instant claims is the concentration of the plurality of spacers throughout the panel being about 250 to about 450/cm. However, the above copending application discloses that it was known to employ the above concentration of the plurality of spacers (paragraph 0103). Thus, it would have been obvious to a person of ordinary skill in the art to employ the above concentration of the plurality of spacers in the LCD of Lee et al for maintaining sufficient uniform thickness of the LC layer.

This provisional rejection might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the copending application was derived from the inventor of this application and is thus not the invention "by another," or by a showing of a date of invention for the instant application prior to the effective U.S. filing date of the copending application under 37 CFR 1.131. This rejection might also be overcome by showing that the copending application is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

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Any inquiry concerning this communication should be directed to Tai Duong at telephone number (571) 272-2291.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

TD
TVD

10/05


ANDREW SCHECHTER
PRIMARY EXAMINER